

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHRISTINA GOULD,

Plaintiff,

Case No. 21-cv-308-pp

v.

ANDREW M. SAUL,

Defendant.

**ORDER GRANTING PLAINTIFF'S AMENDED MOTION FOR LEAVE TO
PROCEED WITHOUT PREPAYING THE FILING FEE (DKT. NO. 6)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3. The court determined that the request to proceed without prepaying the filing fee didn't contain enough information for the court to decide the motion and it ordered the plaintiff to file an amended motion. Dkt. No. 5. The plaintiff has filed her amended motion and a supplemental declaration. Dkt. Nos. 6, 6-1.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit and declaration, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's

amended request indicates that she is not employed, she is not married, and she has no dependents she is responsible for supporting. Dkt. No. 6 at 1. The plaintiff's only source of income is \$363 per month in unemployment, id. at 2, although she indicates that those monthly payments stopped five weeks before she filled out the form, dkt. no. 6-1. The plaintiff lists monthly expenses of \$800 (\$470 rent, \$330 other household expenses). Id. at 2-3. The plaintiff states that she owns her home, with an approximate value of \$13,000, id. at 3, and she explains that her monthly rental expense is for the lot on which her mobile home is located, dkt. no. 6-1. The plaintiff owns a Saturn Vue and a Dodge Avenger, each worth approximately \$3,000, and no other property of value; she has no cash on hand or in a checking or savings account. Dkt. No. 6 at 3-4. The plaintiff indicates that family and friends helped her cover expenses over and above her unemployment payments when she was receiving them and that they continue to help pay her expenses in full now that the unemployment payments have been discontinued. Dkt. No. 6-1. The plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$52 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct

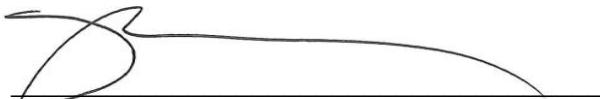
legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff's complaint indicates that the Commissioner of Social Security denied the plaintiff's application for benefits for lack of disability, that the plaintiff is disabled, and that the conclusions and findings of fact by the Commissioner when denying benefits are not supported by substantial evidence and are contrary to law and regulation. Dkt. No. 1 at 2-3. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's amended motion for leave to proceed without prepaying the filing fee. Dkt. No. 6.

Dated in Milwaukee, Wisconsin this 12th day of April, 2021.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge